88-844

Supreme Court, U.S.
FILED
OCT 24 1988
JOSEPH F. SPANIOL, JR.
CLERK

No._____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

WILLARD G. CHRISMAN
Appellant

v.

THE TIMES MIRROR COMPANY
Appellee

On Appeal From The Judgment of the Court of Appeal of California Fourth Appellate District Division One

APPENDIX

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1. 10/7/84
2. 10/6/84
3. 10/5/84
4. 10/4/84
5. 10/3/84
6. 8/29/84
7. 6/22/84
8 5/20/84

F I L E D

MAY 9, 1988

Court of Appeal Fourth

District

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COURT OF APPEAL, FOURTH

APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE TIMES MIRROR COMPANY,

Petitioner,

v.

SUPERIOR COURT, etc., D006534

COUNTY OF SAN DIEGO,

Respondent. (Super. Ct. No. 541625)

WILLARD G. CHRISMAN,

Real Party in Interest.

Proceedings in mandate after denial of summary judgement. Honorable Mack P. Lovett, Judge. Writ granted.

Willard G. Chrisman (Chrisman) was captain of a Navy shop that ran

aground in Hawaii, January 24, 1984. He was courtmartialed for negligently hazarding his ship and acquitted of other charges including being durnk on duty. The Los Angeles Times (Times)[1] ran seven articles about the incident and subsequent court martial hearings which Chrisman claims were libelous. The first allegedly libelous article appeared on May 20, 1984; the second article, which reported that there would be a court martial, was in the papers on August 29, 1984. The court martial began on October 2, 1984, and the next five articles appearing from October 3 - October 7, 1984, reported each day on the previous day's court martial proceedings. Chrisman filed suit in seven counts for libel. Times brought a motion for summary judgment which was denied. A petition for writ

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[1] Petitioner, The Times Mirror Company, publishes the Los Angeles Times.

of mandate was then filed in this court. That was denied with two justices beleiving there were triable issuesof fact as to whether the articles were fair and true reports and as to whether the Times' initial article caused the Navy's charges against Chrisman; one justice dissented believing the Times' articles were not the legal cause of Chrisman's damages. The Times petitioned for review in the California Supreme Court. That court granted review and then transferred the case to us with directions to issue an alternative writ. After the briefing pursuant to that order and oral argument, we grant the petition for mandate.

The first article, published May 20, 1984, was captioned "Navy Officers Say Drunk Captain Caused Grounding" and reported "[n[aval authorities said they have launched a formal investigation . . . ." The Times argues that

since, as the article pointed out, the Navy had decided to reopen its investigation six days before the publication of this first article the Navy, not the Times, is responsible for any damage which may have been suffered by Chrisman. The first Navy investigation into the ship's grounding commenced just after the incident and concluded that gale force winds and loss of one of the ship's two main engines had caused the accident. There was no need for disciplinary action because Chrisman had acted responsibly. In May 1984 after the Navy had concluded its first investigation, the Times, through a "stringer," got the allegation that Chrisman had grounded the ship because he was intoxicated. David Freed, after talking on the phone purportedly with three unnamed Navy officers, wrote an article which he sent for the Navy to preview before it appeared in the paper.

On May 14, 1984, the Commander of the Naval Surface Forces advised the JAG that on May 10, 1984, he had gotten an inquiry from the Times and directec that the investigation of the ship running aground be reopened. On May 20, 1984, the article appeared. In the article the Times took credit for having the Navy reopen its investigation, an investigation it suggested had been shoddily performed as part of a cover-up. Chrisman's immediate supervisor, Captain Gimber, wrote to Chrisman in a letter dated May 24, 1984:

> "Prior to the receipt of text of the L.A. Times article it was difficult to grasp precisely why the investigation was being reopened. The serious allegations made must be addressed if the American people are to retain their confidence in the U.S. Navy."

On June 16, 1984, Chrisman was relieved from the ship's command. Captain Parkhurst wrote to him shortly after to say:

> "[Y]ou [Chrisman] were relieved because of a newspaper article which embarrassed the Navy."

Notwithstanding what Chrisman's colleagues may have thought, our question is whether the Times was the legal cause of his damages. In Werner v. Hearst Publications, Inc. (1944) 65 Cal.App.2nd 667, the defendand had written a letter to the Satat Bar complaining that Werner had acted unethically and had engaged in acts of dishonesty and moral turpitude. The State Bar issued Werner a notice to show cause why he should not be disciplined. Ultimately the discipline matter was diamissed and Werner bought suit against the defendant alleging the initiation of disbarment proceedings was due to the defendant's malicious act by which it intended to damage

his reputation in the community. The court opened that it was not the letter to the State Bar that initiated the disciplinary proceedings; rather, it was the State Bar after its own investigation that did so. Thus there was no causation and no liability as to the defendant. Here it is the same situation. The Times article sent to the Navy did not cause the court martial. Rather, the Navy responded to the article by launching its own investigation, an article 32 investigation, the Navy equivalent to a grand jury investigation. After that investigation the Navy, on August 24, 1984, ordered that a general court martial be convened. Thus, it was the Navy that was the legal cause of the court martial. In that the Times article was not involved in this decision, it was not the legal cause and cannot be held liable as the articles I and II.

Chrisman's court martial began on October 2, 1984, and continued for five days The judge found Chrisman was not guilyt of the allegations that he was intoxicated, that he had failed to report the grounding properly, or that there was a cover-up. He was found guilty of "negligently hazarding his vessel."

The Times says the court martial is a judicial proceeding and thus, their articles about these proceedings are priviledge under Civil Code section 47, subdivision (4). However, the protection given to public journals is confined to "fair and true" reports of the proceedings.

Petitioner says the law is in conflict whether the determination that a report is "fair and true" is a question of law or one of fact. In support of its contention Times cites cases where summary judgement or nonsuit was granted and the court ruled as a matter of law that the jour-

nal's article was a fair and true reflection of the judicial proceedings. (Kilgore v. Younger (1982) 30 Ca;/3d 770.777; Jennings v. Telegram-Tribune Co. (1985) 164 Csl.Spp,3f 119, 128-129; Green v. Cortez (1984) 151 Cal. App,3d 868, 873-874.) In so doing the court assesses whether "the gist or sting' of the report -- its very substance -- is accurately conveyed." If it is not, then the effect of the words and the question of fairness become ones for the factfinder. (McClatchy Newspapers, Inc. v. Superior Court (1987) 189 Cal.App.3d 961, 975; see also Handelman v. San Francisco Chronicle (1970) 11 Cal.App.3d 381, 386-387.) We review the court-martial transcripts and the news articles to see if the latter accurately convey the substance of the former.

The first day of testimony revealed that Chrisman had been ashore with a group of Navy League guests from about noon on. He had consumed one beer for lunch but no one knew

The first day of testimony revealed that Chrisman had been ashore with a group of Navy League guests from about noon on. He had consumed one beer for lunch but no one knew how much alcohol he might have consumed with his fish dinner. On the way back to the ship Chrisman fell asleep in the back seat. Among the persons returning to the ship the English chaplain was a bit under the influence and the others, save for Chrisman, were loud and boisterous. It sppeared they had been drinking although no one knew if it had been to excess. Although the witnesses reported that Chrisman was not under the influence, on that evening he was described as coming up the prow very slowly with heavy steps and using the railing for support. Another witness described the captain as slightly drown, a little pale and with bloodshot eyes. He spoke

slowly and seemed a bit unsteady as he leaned against the bulkhead. There was a navigation briefing that night. In contrast to his usual practice, Chrisman did not attend. After the briefing the executive officer called several others aside to talk "about the condition of the . . . about his concern about the Captain." The executive officer seemed worried. That evening Chrisman vomited liquid in his cabin. The smell was of drinking alcohol. Chrisman slept and those who tried to rouse him found it difficult if not impossible to do so. Two witnesses testified that the next day Chrisman looked hung over. An expert witness who testified as to possibility of food poisoning opened that the most consistent diagnosis was acute alcohol intoxication based on reports Chrisman was unsteady coming on board, was stuporous and vomiting in his cabin and the next day appeared quite drawn.

The article of October 3 is captioned, "Drunkenness Denied by Skipper" with the subtitle "Chrisman Says He Had Food Poisoning When Ship Ran Aground." The first fifteen paragraphs discuss the opening argument by Chrisman's lawyer, Bogart, and that the case is to last a week and be heard by a Navy judge. It then continues with Bogart's portrayal of Chrisman as an officer with an unblemished record, the charges, and that Chrisman had been relieved from duty. Next is the report that the prosecution thought the situation called for a court-martial and that they called seven witnesses the first day "who testified that Chrisman exhi- various signs of intoxication . . . ." The following 11 paragraphs report on the testimony; the food poisoning expert's opinion that the most consistent diagnosis was intoxication; that Chrisman had been ashore that day and

consumed one beer at lunch; that the officer of the de[illegible] watched Chrisman as he came aboard, came up to the prow slowly, steps heavy, often leaning on the rail for support; that Chrisman could not be roused from his bed and missed, for the first time, the navigational briefing; and that the seaman who took him tomato juice found Chrisman huddled in his bunk, the trash can filled with vomit and the cabin reeking of alcohol. THe article concludes that soon after getting underway a strong wind threstened to run the ship aground and there was a tttempt to "twist" the ship which failed.

Having read the testimony, the article appears to capture its "gist and sting." We note that the article tracks the testimony of each of the seven witnesses in the order the testltified. Thus, we look for real party to direct us to the specifics which

he believes give rise to a cause of action. Chricman points to several portions of testimony which were omitted. One is the testimony of the expert about the causes and effects of food poisoning. However, the article, indeed even its subtitle, says that Chrisman's defense was food poisoning. Next is the testimony of a dinner partner who said he also ate fish that evening and fell ill. However, a review of the witness's testimony shows he said nothing about eating fish but rather that he had been sitting at another table and did not know if Chrisman had had anything to drink with dinner.

Chrisman refers us to a comparison of trial testimony and the news articles which he presented to the trial court. As to the article of October 3, he suggests there was testimony that was not included and should

have been such as two witness reports that Chrisman appeared normal when he arrived on the bridge, the testimony that the crew let water in the well deck without telling Chrisman and the testimony of a witness who said although he saw Chrisman weaving he did not smell alcohol. The omissions are minor and in context cumulative. In view of the totality of th testimony these omissions do not make the article in question less that true or fair.

The second day of testimony centered on the incident of going aground and the measures that were taken first to prevent and then to remedy the situation. An authority on amphibious assault ships testified as to what, in his opion, had happened and discussed various courses of action. No witness who saw Chrisman on the bridge that night thought he was intoxicated.

But observers did say he appeared quiter than usual. Several witnesses testified with regard to what Chrisman told them about the upcoming JAG Manual INvestigation. Chrismansaid the investigator, Parkhurst, was "his friend and there was nothing to worry about," and to speak freely and not hold anything back. However, one witness, the bosun, admitted that he had earlier told counsel that CHrisman told him to shut up and not spread around what had happened.

It was this that served as the basis of the Times' caption, "Bosun Says Chrisman Told Him to 'Shut Up' About Ship Grounding," the following day. The article begins with three paragraphs describing more fully the bosun's testimony and that the captain had said a fried would be doing the investigation and no one would be found culpable. THe article then continues

with the prosecution's charge of intoxication, Chrisman's defense of food poisoning, the charges brought and the penalty should there be a conviction. The next five paragraphs relate the backing of the ship, the going aground and the unsuccessful attempt to twist out of it. Those on the bridge, the article says, found the captain strangely quiet. Then the article discusses the investigation by Parkhurst and his report which made no mention of alcohol and recommended no punitive action. Officers outraged at the report contacted the Times and the Navy renewed its inbestigation. And the paper concludes, the expert who testified said that many of the captain's actions that night were not reasonable or prudent.

The article fairly describes the testimony of October 3 1984. Chrisman brings up a number of specifics which

he believes makes the article less than fair and true. These are: the failure to report that the civilian pilot, Geronimo, agreed with the plan to twist the ship; the failure to report that Chrisman said Parkhurst would conduct a fair investigation; the failure to specify that Chrisman told the bosun not to discuss the matter around those in authority; and the failure to report the testimony of two witnesses. As to the last, the paper is under no obligation to report the testimony of each and every witness. Omission of Geromin's testimony does not detract from the report of the overall testimony for that day. We find nothing in the pages cited to us that Parkhurst would conduct a fair investigation. Rather on cross-examination in response to a leading question the witness agreed that Parkhurst was a "fair man." Contrary to what Chrisman suggests the bosun testified that Parkhurst had not told him to limit his discussion

of the matter to Naval personnel.

The testimony on the third day included three witnesses who observed Chrisman on the bridge on the night ing question and who reported that he appeared normal, the testimony of two persons who inspected the damage to the ship, the testimony of an expert who said the symptoms Chrisman exhibited were consistent with food poisoning and the testimony of five persons who said Chrisman was a persone do moderate habits. The Times' article that day is entitled "Drama Low-Keyed At Court-Martial" with the subtitle "Navy Skipper Being Tried Without Any Military Pomp." The article does not purport to report the testimony of the preceding day instead focusing on the courtroom and the players in the drama, the judge and the lawyers. Chrisman argues the Times did not include the testimony of four colleaguesthat he was a man of moderate temperament. However, an noted earlier this article did not

report on the previous day's testimony but rather is in the nature of a background article.

On October 5, 1984, the high point was when Chrisman took the stand. He concluded his testimony by saying he was not drunk on the day in question and this was the basis for the Times' headline, "Skipper Denies Going Aground While Drunk." The article continues that closing argument is expected soon, repeats the charges and reports that Chrisman spent an hour testifying. As to the testimony, the article accurately reflects that Chrisman said he went running that morning, went ashore about noon, drank his fourth beer of the day with his dinner of mahi-mahi which had a strong taste. He felt ill on the way back to the ship and some crewmen testified he appeared intoxicated. Chrisman says he had food poisoning. The article

then goes on to report the testimony of Chrisman's executive officer to the effect he suspected Chrisman was drunk but later was convinced otherwise by Chrisman's competence on the bridge. He testified he went to get Chrisman for the navigation briefing and was told "you take it." Chrisman looked sick. After the navigation briefing the executive officer said he held another briefing where he told the department heads that he was worried about the captain's condition, that the captain was intoxicated. But, on the bridge the captain performed well and had he not been there damage could have been more severe. The article then recounts that high winds that might contributed to the problem and the unsuccessful "twist," and that Chrisman thought there was a mechanical failure but the crew did not. A comparison of the testimony shows

the article is a true and fair report.

The final day of the court martial was devoted to closing argument and findings. The Times article was captioned, "Commander Acquitted of Drunkenness" and subtitled "But Navy Judge Find's Him Negligent in Warship Accident." The article which follows presents a fair and true summary of the case including opinions on the verdict. Chrisman does not complain of any specifics in this article.

Our review of the transcripts day by day and comparison with the corresponding Times' articles shows the articles are true and fair as a matter of law. The prosecution version of the facts, the defense version of the facts and the decision, are all reported. Chrisman's major objection seems to be that the Times referred to him a possibly being "intoxicated" or "drunk" on the night in question

when not one witness (except perhaps the executive officer) testified that he appeared intoxicated; that the times reporting suggested there was a coverup when there was not. However, Chrisman was charged with being intoxicated and the symptoms he exhibited, walking slowly with heavy step, unsteady and using the railing for support, bloodshot eyes, vomiting, smell of alcohol are consistent with intoxication. The omission of certain testimony is within the discretion of the newspaper. To omit the information about the well deck was permissible because the articles made clear there might be other factors involved. Finally as to the alleged coverup the paper reported testimony on both sides. These were fair and true reports protected by the privilege of Civil Code section 47, subdivision (4).

Let a peremptory writ issue directing the superior court to vacate its order denying summary judgement and to enter a new and different order granting judgment for the defendant. The alternative writ is discharged.

/s/ ?

KREMER, P.J.

WE CONCUR:

/s/

WIENER, J.

/s/

WORK, J.

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SAN DIEGO

Date June 5, 1987 Minutes Dept. 25

PRESENT: HON. MACK P. LOVETT

CLERK TINA KURA REPORTER EMILY JONES

BAILIFF JACK PLUM

541625 WILLARD G. CHRISMAN
(CHRISMAN), Plaintiff,
vs. By: Carlo Coppo
THE LOS ANGELES TIMES,
and DOES 1through 50,
inclusive (TIMES),
Defendants.
By: Rex Heinke
Jeffery Klein

1. 10:00 a.m. This being the time previously set for TIMES' Motion for Summary Judgment, there appeared Rex Heinke and Jeffrey Klein, representing TIMES. Representing CHRISMAN was Carlo Coppo.

2. The TIMES' evidentiary objection filed with the Court October 31, 1986 to Declaration of Michael Loessin was taken under submission by the Court. The copy of Loessin's declaration filed with the Court was single-spaced and the copies of the declaration in possession of counsel were double-spaced. The evidentiary objections filed by page and paragraph. A copy of Loessen's declaration, double-spaced, consisting of five pages, was filed with the Court to replace the 21/2 page single-spaced declaration previously filed with the Court.

3. The Court ruled on TIMES' evidentiary objections filed October 29, 1986 as follows:

A. Declaration of Dianne Chrisman dated October 20, 1986

The Court sustains TIMES' hearsay objection as to Page 3, Lines 14,15,16,17 and 18

and Page 4, Line 17. The balance of TIMES' objections is overruled for the reasons stated in open court on June 5, 1987.

B. Declaration of Willard Chrisman dated October 20, 1986

The Court overrules objection to Pages 1 through 16 on the grounds of relevancy. On Page 4, Lines 3 through 15, the Court overrules TIMES' objection and finds that defendant does have personal knowledge.

The Court sustains TIMES' objection on the grounds of no personal knowledge as to the follwoing portions of the declaration: (i) Page 17, Lines 1-20; (ii) Page 20, Lines 4-27; (iii) Page 21, Lines 1-7 and 24-27;

(iv) Page 22, Lines 1-6.

The balance of the objections to Willard Chrisman's declaration by TIMES is overruled for the reasons stated in open court this date.

C. TIMES' objections as listed in Paragraphs 3 through 14 consisting of objection to transcript of court-martial and other exhibit submitted by plaintiff in opposition to TIMES' motion for summary judgment are overruled for the reasons stated in open court on June 5, 1987.

4. Ruling on Times-Mirror's evidentiary objections to evidence submitted by plaintiff in support of his supplemental opposition to motion for summary judgment filed with the Court May 23, 1987. TIMES" objections as contained

in the ten page filing with the Court are overruled for the reasons stated in open Court with the exception of Paragraph N, Page 6, which deals with pages 137 through 142 of plaintiff's characterization of Parkhurst testimony. Objection is sustained. Objections by TIMES to deposition of David Freed and Nigel Parkhurst are overruled.

5. The Court denied TIMES' motion summary judgment. The Court finds there is a triable issue of fact based upon the depositions of CHRISMAN, David Freed and Captain Nigel Parkhurst.

6. Summary adjudication of issues:

ISSUE No. 1:

No correction demand was ever made for the articles published by Times-Mirror on May 20, August 29, and

October 3, 1984 ("Articles One, Two and Three"). As to those articles, plaintiff is therefore limited to his special damages, if any, pursuant to Civil Code section 48a.

Decision: Grant.

ISSUE No. 2:

The correction demand for the articles published by Times-Mirror on October 4, October 5, October 6 and October 7, 1984 ("Articles Four, Five, Six and Seven"), was insufficient because it was not served on the publisher as required by law. As to those articles, plaintiff is therefore limited to his special damages if any, pursuant to Civil Code section 48a.

Decision: Deny.

ISSUE No. 3:

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SAN DIEGO

DATE June 5, 1987 MINUTES DEPT. 25

PRESENT: HON. MACK P. LOVETT

CLERK TINA KURA REPORTER EMILY JONES

BAILIFF JACK PLUM

Plaintiff cannot prove that he suffered any special damages as a result of a publication of the seven articles by Times-Mirror because he bases that claim on damages to his reputatuon and on actions that were taken by the Navy, not by TIMES-MIRROR.

Decision: Taken under submission on June 5, 1987.

ISSUE No. 4:

The court-martial of plaintiff, Cmdr. Willard G. Chrisman, was a judicial or other official proceeding within the meaning of

Civil Code section 47 (4).

Decision: Grant

ISSUE No. 5:

On October 3, October 4, October 5, October 6 and October 7, 1984, Times-Mirror published articles that reported on the charges, the testimony, and the outcome of plaintiff's court-martial. The references to plaintiff in Article Three through Seven were fair and true reports of the charges, the testimony and the outcome of plaintiff's court-martial, and were therefore absolutely privileged under California Civil Code section 47 (4).

Decision: Deny. The Court cannot find as a matter of law that it was fair and true report. In my opinion it was not a fair and true report, and thus a question of fact for a judge or jury if the report was fair.

ISSUE No. 6:

The references to the plaintiff in Articles Three through Seven published by Times-Mirror were reports of the charges, the testimony, and the outcome of plaintiff's court-martial, and were therefore absolutely privileged under the First and Fourteenth Amendments to the United States Constitution.

Decision: Deny.

ISSUE No. 7:

The references to the plaintiff in Articles Three through Seven published by Times-Mirror were reports of the charges, the testimony, and the outcome of plaintiff court martial, and were therefore absolutely privileged under Article 1, Section 2 of the California Constitution.

Decision: Deny.

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SAN DIEGO

DATE June 19, 1987

PRESENT: HON. MACK P. LOVETT JUDGE

CLERK TINA KURA

BAILIFF N/A

REPORTER N/A

(Ruling on matter under submission)

(This is not a record of action occurring while Court in session.)

541625

WILLARD G. CHRISMAN (CHRISMAN), Plaintiff,

By: Carlo Coppo

vs.

THE LOS ANGELES TIMES, and DOES 1 through 50, inclusive (TIMES), Defendants.

By: Rex Heinke

RULING ON TIMES' EVIDENTIARY OBJECTIONS FILED WITH THE COURT

OCTOBER 1, 1986 TO DECLARATION OF MICHAEL LOESSIN SUBMITTED BY PLAINTIFF IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

(Taken Under Submission on 6/5/870

1. TIMES' objection on the ground that Loessin's declaration fails to comply with Code of Civil Procedure 2015.5 is overruled. The Court finds substantial compliance with 2015.5.

2. TIMES" second objection dealing with Paragraph 3 on Page 1 through Page 3 is overruled. The Court finds the information contained therein is relevant to the issues before the Court.

3. TIMES' third objection to Paragraph 4 on Page 3 is sustained on the basis that Loessin lacks personal knowledge, and accordingly, this portion of the declaration lacks adequate foundation.

4. TIMES' objection to the last

sentence of Paragraph 4 of the declaration is sustained on the basis that he lacks personal knowledge.

5. TIMES' fifth objection directed to Paragraph 5 on Pages 3 and 4 is sustained, as the impact on other officers is irrelevant.

6. TIMES' objections to Paragraph 6 on Page 4 are overruled.

7. The balance of TIMES' objections commencing on Page 3 of the objection filed October 31, 1986 commencing with Line 18 thereof are overruled.

Dated: JUN 19 1987

Mack P. Lovett

JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SAN DIEGO

DATE June 25, 1987

DECISION 35

PRESENT: HON. **MACK P. LOVETT** JUDGE

CLERK **TINA KURA**

BAILIFF **N/A** REPORTER **N/A**

(Ruling on matter under submission)

(This is not a record of action occurring while Court in session.)

541625

WILLARD G CHRISMAN

(CHRISMAN), Plaintiff, By:

Carlo Coppo

vs.

THE LOS ANGELES TIMES,

and DOES 1 through 50,

inclusive (TIMES-MIRROR),

Defendants, By Rex Heinke

Jeffrey Klein

RULING ON SUMMARY ADJUDICATION

ISSUES #3 AND #5

(Taken Under Submission on 6/5/87)

I. BACKGROUND

On June 5, 1987, after oral argument, the Court made a series of rulings concerning TIMES-MIRROR's motions for summary judgment, summary adjudication and various evidentiary objections. The Court took under submission for future ruling summary adjudication #3, which reads as follows:

"Plaintiff cannot prove he suffered any special damages as a result of publication of the seven articles by TIMES-MIRROR because he bases that claim on damages to his reputation and on actions that were taken by the Navy, not by TIMES-MIRROR."

II. DECISION

Sumnmary adjudication #3 is denied

III. DISCUSSION

A crucial issue in the subject case is whether or not the newspaper article published on May 20, 1984

was a substantial cause of the U. S. Navy's decision to court-martial CHRISMAN. TIMES-MIRROR contenda that causation inthes case is a question of law and not fact, as CHRISMAN's special damages, if any, were caused solely by the actions of the U. S. Navy. While normally causation is a question of fact, TIMES-MIRROR contends that since only the U. S. Navy could have decided to reopen the investigation or to order a court-martial, there can be no issue of fact as to whether TIMES-MIRROR was the cause in part of CHRISMAN's difficulties with the U. S. Navy.

CHRISMAN contends that the trier of fact should have the right to review the conduct of TIMES-MIRROR in this case, since it involves the publication of a article which is in the nature of investigation reporting, as opposed to the publication

of an article relative to an event of public interest at the time of the event. CHRISMAN is entitled to his day in court so that the trier of fact may determine whether the publication of TIMES-MIRROR was a substantial cause in convening the court-martial which charged him with commanding a naval vessel while intoxicated. It is interesting to note that the second TIMES-MIRROR article supports CHRISMAN'S position, wherein the article states that an Admiral ordered an investigation of the incident after TIMES-MIRROR reported allegations of drunkenness by CHRISMAN. While the TIMES-MIRROR reporter may be mistaken in such belief, an issue of fact remains. Further , I find there is conflicting evidence on what did cause the Navy to reopen the investigation and convene a court-martial.

Concerning denial on June 5, 1987 of summary adjudication of Issue #5, counsel for TIMES-MIRROR vigorously took exception to the Courts ruling. Counsel requested the Court to set forth in the form of a written opinion each reason why the newspaper articles concerning the court-martial did not constitute a full and fair report pursuant to C.C §47 (4). It is my belief that the Court is not required to make such findings, since the transcript of the court-martial and the newspaper articles speak for themselves and can be considered by an appellate court in the same climate as an appellate court reviews a trial court's interpretation of a written contract. Accordingly, the Court's reasoning is not determinative in this situation. It remains my opinion that C.C. § 47(4) does not shield TIMES-MIRROR from trial

because, in my judgment, the articles 3 through 7 were biased against CHRISMAN and did not fairly report the proceedings. Further, by way of example, there was no testimony at the court-martial by anyone that CHRISMAN was intoxicated. Yet the implication of Articles 3 through 7 are the same as Articles 1 and 2, namely, that CHRISMAN has a drinking problem while on duty.

The Court is aware that generally in cases of this type the plaintiff is most interested in whether or not the story on him or her is true or false, whereas the issuer in the litigation tend to focus on how the newspaper did the story. I have attempted to analyze the case on the issue of how the story was done and not whether or not the newspaper articles were in all areas true and accurate.

Dated: JUN 25, 1987

Mack P. Lovett

MACK P. LOVETT

FILED

Robert D, Zumwalt, Clerk

JUN 29, 1987

By T. Kura

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

CASE NO. 54125

NUNC PRO TUNC ORDER

RE EFFECT OF MINUTES

OF JUNE 5, 1987 HEARING

WILLARD G. CHRISMAN,

Plaintiff,

v.

THE LOS ANGELES TIMES,

and DOES 1 through 50, inclusive,

Defendants.

The Minuted of the June 5, 1987 Hearing on Defendant's Motion for Summary Judgment Or, In the Alternative, for Summary Adjudication of Issues, reflected my tentative rulings on the motion. A final order ruling on all the issues brought

by defendant will be entered by the Court in due course, and notice will be sent to the parties.

This order is effective

nunc pro tunc.

DATED: JUN 29, 1987

MACK P. LOVETT

MACK P. LOVETT

JUDGE OF THE SUPER-

IOR COURT

APPROVED AS TO FORM:

DATED: June 25, 1987

GIBSON, DUNN &

CRUTCHER

REX S. HEINKE

LINDA L. BERGER

TRACY POOL REEVE

THE TIMES MIRROR

COMPANY

JEFFREY S. KLEIN

/s/ BY:_____

TRACY POOL REEVE

Attorneys for

Defendant

THE TIMES MIRROR

COMPANY

DATED: 6/26/87

CARLO COPPO &

ASSOCIATES

/s/ By:_____

CARLO COPPO

Attorneys for Plain-

tiff

WILLARD G. CHRISMAN

F I L E D
Keenan G. Casady, Clerk
SEP. 22, 1987

Court of Appeal Fourth District

COURT OF APPEAL, FOURTH APPELLATE DISTRICT
DIVISION ONE
STATE OF CALIFORNIA

THE TIMES MIRROR COMPANY
Petitioners,
v.
SUPERIOR COURT, etc.,D006534
COUNTY OF SAN DIEGO,
Respondent. (Super. Ct. No. 541625)

WILLARD G. CHRISMAN,
Real Party in Interest.

THE COURT;

The petition for writ of mandate, opposition and reply have been read and considered by Presiding Justice Kremer and Justices Wiener and Butler. The petition is denied as there are triable issues of fact as to whether the articles were "fair and true report(s)" and whether the petitioner's initial articles caused the Navy to charge real party with commanding a vessel while intoxicated. J. Wiener would grant the petition believing the petitioner is not the legal cause of real party's damages.

/s/

KREMER, P.J.

Copies to: All parties

SUPREME COURT

F I L E D

NOV 12, 1987

Laurence P. Gill, Clerk

_____

DEPUTY

ORDER GRANTING REVIEW

AFTER JUDGEMENT BY THE COURT OF APPEAL

Fourth District, Division One,

No. D006534, S002655

IN THE SUPREME COURT OF THE STATE

OF CALIFORNIA

IN BANK

THE TIMES MIRROR COMPANY, Petitioner

v.

SUPERIOR COURT OF THE COUNTY OF SAN DIEGO

Respondent; CHRISMAN,

Real Party in Interest

Petition for review GRANTED. The matter is transferred to the Court of Appeal, Fourth Appellate District, Division One, with directions to issue an alternative writ to be heard before that court when the proceeding is ordered on calendar.

LUCAS
Chief Justice

MOSK
Associate Justice

BROUSSARD
Associate Justice

PANELLI
Associate Justice

ARGUELLES
Associate Justice

EAGLESON
Associate Justice

Associate Justice

F I L E D

May 20, 1988

Court of Appeal Fourth District

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE TIMES MIRROR COMPANY

Petitioner,

v.

SUPERIOR COURT, etc., D006534

COUNTY OF SAN DIEGO,

Respondent. (Super. Ct. No. 541625)

WILLARD G. CHRISMAN,

Real Party in Interest.

THE COURT;

The petition for rehearing is denied.

/s/_____

KREMER, P.J.

Copies to: All Parties

SUPREME COURT

F I L E D

July 28, 1988

Laurence P. Gill, Clerk

ORDER DENYING REVIEW

AFTER JUDGEMENT BY THE COURT OF APPEAL

4th District, Division 1, No. D006534

S002655

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

THE TIMES MIRROR COMPANY, Petitioner,

v.

SUPERIOR COURT OF THE COUNTY OF SAN DIEGO, Respondent; CHRISMAN, Real party in Interest.

Petition for review DENIED.

/s/ LUCAS
Chief Justice

Received

Stephen M. Kelly, Clerk

October 26, 1988

Court of Appeal Fourth District

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE TIMES MIRROR COMPANY, Petitioner, v. SUPERIOR COURT, etc., COUNTY OF SAN DIEGO, Respondent.	D006534 (Super.Ct. No. 541624) (S.Ct. No. S002655)
WILLARD G. CHRISMAN, Real Party in Interest.	

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that WILLARD G. CHRISMAN, the Real Party in Interest above-named, hereby appeals to the Supreme Court of the United States from the final

order of the Court of Appeal, Fourth Appellate District, Division One, State of California, entered May 9, 1988, directing that a peremptory writ issue to the Superior Court to vacate its Order denying summary judgment and to enter a new and different Order granting judgment for the defendant, the LOS ANGELES TIMES, rehearing and review of which was denied May 20, 1988, and which Order was affirmed by the Supreme Court of the State of California on July 28, 1988.

This appeal is taken pursuant to 28 U.S.C. § 1257(2).

Dated: Oct. 26, 1988 **COPPO & COSGROVE**

/S/_____

Alexandra M. Kwoka
Carlo Coppo
Attorneys for Real Party in Interest,
WILLARD G. CHRISMAN
11975 El Camino Real
Suite 303
San Diego, CA 92130

AMK:gvb[3.7]

CERTIFICATE OF SERVICE

I, Alexandra M. Kwoka, a member of the Bar of the Supreme Court of the United States, and one of the attorneys for plaintiff Willard G. Chrisman hereby certify that on the 26th day of October, 1988, I served a copy of the NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES on the Court of Appeal for the Fourth Appellate District, Division One, as follows:

1. By having a copy of the Notice of Appeal personally served by a messenger service upon the Clerk of the Court at: 1350 Front Street, Suite 6010, San Diego, CA 92101;
and by placing in the United States mail, a copy duly addressed with first class postage prepaid to the Court of Appeal, Fourth Appellate District, Division One at the same address.

2. I also certify that on October 26, 1988, I served a copy of the Notice of

Appeal to the Supreme Court of the United States on the following parties and persons as follows:

a. By having personally served by a messenger service the Notice of Appeal at the following addresses:

Gibson, Dunn & Crutcher, 600 "B" St., Ste 2300, San Diego, CA 92101.

San Diego Superior Court, Department 25, 220 West Broadway, San Diego, Ca 92101

Attorney General of the State of California, 110 West "A" Street, San Diego, CA 92101

b. By placing in the United States mail, a copy duly addressed with first class postage prepaid to the above-named persons at the above addresses.

3. I certify that I served a copy of the Notice of Appeal on the Supreme Court of the United States by placing in the United States mail, the appropriate number of copies duly addressed with first class postage prepaid to the Supreme Court at the following address:

Supreme Court of the United States, 1 First

Street, N.E., Washington, DC 20543.

/S/_____
ALEXANDRA M. KWOKA

IN THE SUPREME COURT OF

THE STATE OF CALIFORNIA

WILLARD G. CHRISMAN, **Appellant,** **v.** **THE TIMES MIRROR COMPANY,** **Appellee.**	NO. S 002655

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that WILLARD G. CHRISMAN, the appeallant above named, hereby appeals to the Supreme Court of the United States from the final order of the Supreme court of the State of California denying WILLARD G. CHRISMAN's Petition for Review and affirming the order of the Court of Appeal, Fourth Appellate District, Division One, issuing a peremptory writ

directing the entry of summary judgment for defendant the L.A. TIMES, entered herein on July 28, 1988.

This appeal is taken pursuant to 28 U.S.C. § 1257(2).

Dated: Oct. 20, 1988 **COPPO & COSGROVE**

/S/_____
Alexandra M. Kwoka
Carlo Coppo
Attorneys for Appellant,
WILLARD G. CHRISMAN
11975 El Camino Real
Suite 303
San Diego, CA 92130

AMK:gvb[3.5]

CERTIFICATE OF SERVICE

I, Alexandra M. Kwoka, a member of the Bar of the Supreme Court of the United States, and one of the attorneys for plaintiff Willard G. Chrisman hereby certify that on the 20th day of October, 1988, I served a copy of the JURISDICTIONAL STATEMENT on Gibson, Dunn & Crutcher, as follows:

1. By placing in the United States mail a copy duly addressed with postage prepaid to Gibson, Dunn & Crutcher, 600 "B" Street, Ste. 2300, San Diego, CA 92101.

/s/_____

ALEXANDRA M. KWOKA

CERTIFICATE OF SERVICE

I, Alexandra M. Kwoka, a member of the Bar of the Supreme Court of the United States, and one of the attorneys for plaintiff Willard G. Chrisman hereby certify that on the 24th day of October, 1988, I served a copy of the JURISDICTIONAL STATEMENT on the Attorney General of the State of California, as follows:

1. By placing in the United States mail a copy duly addressed with postage prepaid to the Attorney General of the State of California, 110 West "A" Street, San Diego, California. 92101.

/s/_____

ALEXANDRA M. KWOKA

CERTIFICATE OF SERVICE

I, Alexandra M. Kwoka, a member of the Bar of the Supreme Court of the United States, and one of the attorneys for plaintiff Willard G. Chrisman hereby certify that on November 18, 1988, I served the within NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES AND JURISDICTIONAL STATEMENT AND AMENDED APPENDIX on the interested parties in said action, by placing the appropriate number of copies thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Del Mar, California addressed as follows:

Supreme Court of the United States, 1 First Street, N.E., Washington, DC 20543

Gibson, Dunn & Crutcher, 600 "B" Street, Ste. 2300, San Diego, CA 92101

Attorney General of the State of California, 110 West "A" Street, San Diego, CA 92101

Clerk of the Court, Supreme Court of California, 3580 Wilshire Blvd., Ste 213 Los Angeles, CA 90010

Court of Appeal, Fourth Appellate District, Division One, 1350 Front Street, #6010, San Diego, CA 92101

San Diego Superior Court, Dept. 25, Judge Lovett, 220 West Broadway, San Diego, Ca 92101

I declare under penalty of perjury, that the foregoing is true and correct.

Executed on November, 18, 1988 at San Diego, California.

/s/_____
ALEXANDRA M. KWOKA

LOS ANGELES TIMES
PART II/Sunday, October 7, 1984

COMMANDER ACQUITTED OF DRUNKENNESS

But Navy Judge Finds Him Negligent in Warship Accident

By DAVID FREED, Times Staff Writer

After five days of testimony and nearly 40 witnesses, a Navy judge on Saturday acquitted Cmdr. Willard G. (Bud) Chrisman of charges that he was drunk when an aging San Diego-based warship went aground in Hawaii on Jan. 24.

But Capt. Joseph M. Battaglino found Chrisman, 42, guilty of "negligently hazarding" the amphibious assault ship Thomaston during the grounding, and ordered that a letter of reprimand be placed in his career file.

"Your actions amounted to negligence and not a mere error in judgment," Battaglino told Chrisman.

Chrisman's conviction at general court-martial is believed to be the first in at least five years involving a ship captain

of the Navy Pacific Fleet.

20-Year Veteran

A decorated 20-year veteran, Chrisman appeared stoic and remained silent as the verdict was read. He declined to comment afterward. His attorney said Chrisman intends to appeal the decision.

Although the sentence is relatively light, it could stifle any chance Chrisman had of being promoted.

"It would be highly unlikely that he will ever again command a ship," said Chrisman's former executive officer, Cmdr. Michael Loessin, who testified on his behalf.

During his court-martial, Chrisman admitted that he had drunk four beers on the day of the grounding but insisted that he was not impaired as he attempted to steer the ship out of harm's way. Crewmen testified that he appeared drunk as he came aboard the Thomaston after liberty that day. Chrisman attributed his unusual appearance and behavior that night to food poisoning.

Battaglino said Saturday that there was

insufficient evidence to prove "beyond a reasonable doubt " that Chrisman was guilty of the other allegations against him. The Navy charged him with 13 counts of violating the Uniform Code of Military Justice. The allegations included being drunk while on duty, incapacitating himself for duty, negligently damaging government property and negligently hazarding a vessel by operating the ship in an unsafe condition. Other charges included dereliction of duty by failing to accurately report damage sustained during the grounding and knowingly releasing an official Navy message containing false information regarding one of the ship's landing craft, which also was damaged in the grounding.

Opinions of Verdict Vary

Chrisman's lawyer, Lt. Cmdr. Jeffrey H. Bogart, condemned the Navy's attempts to convict Chrisman.

"If I were to characterize the goverment's approach, it would be to level a shotgun at Cmdr. Chrisman, hoping something

would stick," Bogart said.

Lt. David L. Abney, the Navy lawyer who prosecuted the case, said he is pleased with the verdict. "I was happy to get (Chrisman) on anything," Abney said afterward. "The Navy doesn't need the type of behavior that Chrisman was accused of."

The Navy preferred charges against Chrisman after The Times in May reported officers' allegations that he was drinking on the day of the incident.

The grounding occurred at Port Allen on Kauai as the ship prepared to get under way for Pearl Harbor. Witnesses said Chrisman failed to attend a navigational briefing on board that night - the first time he had missed such a meeting - and was found afterward passed out in his cabin. The cabin, according to one enlisted man, reeked of alcohol and vomit.

'Twist' Ordered

Chrisman arrived on the Thomaston's bridge as the ship backed out of the harbor into strong winds. As the ship began drift-

ing toward shoal water, Chrisman took direct command and ordered a "twist," a maneuver in which a ship's two massive propellers are rotated in opposite directions so that the vessel pivots with little forward or backward movement.

The Thomaston continued to drift toward shoal water for about 15 minutes, but Chrisman, witnesses said, attempted no other evasive action. Eventually, it scraped an uncharted reef. No one was injured in the incident, but later inspection showed at least $280,000 damage to the ship.

"To try a twist for five minutes is fine and dandy," Abney said Saturday in his closing argument. "But to have continued it for 15 minutes when it clearly wasn't working is ridiculous. That's where the negligence occurred. To put it in more mundane terms, he's already run the stop sign. . . He could have saved the ship from any damage at all had his judgment not been impaired. Either because of intoxi-

ication or just plain negligent seamanship, he let his ship run aground."

Chrisman's defense keyed upon the assertion that as he tried to maneuver the 510-foot ship, an errant 3/8-inch metal nut became lodged in one of its two main engines. Crewmen were forced to kill the engine when full power was needed to avoid the shoals.

Had that mechanical "act of God" not occurred at a crucial moment, the Thomaston might not have gone aground, Chrisman's attorney said. The ship's engineers, however, testified that the propeller shaft stopped turning only after the hull struck the reef.

LOS ANGELES TIMES
Part II/Saturday, October 6, 1984

SKIPPER DENIES GOING AGROUND WHILE DRUNK

By DAVID FREED, Times Staff Writer

Cmdr. Willard G. (Bud) Chrisman testified at his general court-martial Friday that he drank four beers on the day his ship went aground in Hawaii, but he denied that he was intoxicated or mentally impaired when the accident occurred.

Chrisman's admission, as well as his insistence that mechanical difficulties contributed in large measure to the Jan. 24 grounding at Port Allen on Kauai, came as the defense rested its case in the weeklong trial.

Navy Judge Joseph M. Battaglino is expected to hear closing arguments this morning. He may issue a verdict immediately afterward.

Chrisman has pleaded innocent to all 13 of the Navy's charges against him stemming from the grounding of his San Diego-based

vessel, the amphibious assault ship Thomaston. No one was injured in the incident, but at least $280,000 in damage was done to the 30-year old ship, which the Navy decommissioned last week.

Composed and soft-spoken, Chrisman, 42, spent slightly more than an hour testifying Friday afternoon, the first time he has publicly described his version of what happened Jan. 24.

Chrisman said he had gotten little sleep the night before and began the day of the grounding with an eight-mile run. At about noon, he went ashore with a group of civilian guests. He said he drank a beer on the pier at Port Allen while explaining the ship's loading capabilities, and then went sightseeing with the civilians.

During the afternoon, he had two more beers, he said. At dinner, he ordered a fish dish - mahi mahi - and another beer, neither of which he finished, he said. Chrisman said he lost his appetite

midway through the meal because, he said, the mahi mahi had "too strong a fish taste."

On the way back to the Thomaston at about 6:45 p.m., Chrisman began to feel sick, he said.

Some crewmen have testified Chrisman appeared intoxicated and had alcohol on his breath when he returned to the ship that night. Others have insisted that their abrupt and demanding skipper seemed normal, although unusually subdued.

Chrisman has maintained that he was overcome by severe food poisoning caused by the fish he ate for dinner.

He said that as soon as he reached his cabin aboard the Thomaston, he threw off his clothes and began to vomit. "I've got a weak stomach anyway from motion sickness," Chrisman testified, "I get seasick."

When asked Friday by his attorney, Lt. Cmdr. Jeffrey H. Bogart, whether he was drunk that day, Chrisman's response was sure but barely audible.

"No, I was not at any time," he said.

Chrisman's executive officer, Cmdr. Michael Loessin, testified Friday that as the Thomaston prepared to get under way Jan. 24 to Pearl Harbor, he suspected that Chrisman was drunk. However, Loessin said he was later convinced otherwise by the competent manner in which Chrisman handled himself as the ship left Port Allen.

Loessin said he had scheduled a navigational briefing to discuss with Chrisman and ship's officers the procedures that would be used to maneuver the Thomaston out of Port Allen. That task, all had agreed earlier, might be tricky because of the port's narrow dimensions and abundant shoals.

Chrisman, however, did not attend the briefing - the first time he had ever been absent at such a gathering, Loessin testified. After delaying the briefing for more than an hour, Loessin went to Chrisman's cabin and found Chrisman

rocking back and forth, "holding on to his stomach. He looked sick and told me to take the briefing."

Loessin then called a closed-door meeting with other officers aboard the ship.

"I told them that the captain would not be much help to us tonight, that we all had to do our jobs," Loessin said. "I indicated . . . to the department heads that the captain was intoxicated . . . I was deeply and sincerely worried about the captain's condition."

Loessin testified that only after he summoned him three times did Chrisman come to the Thomaston's bridge to direct the departure from Port Allen. Once he arrived, Chrisman seemed lucid and under control, although his efforts in preventing a grounding proved unsuccessful, Loessin said.

"Damage to the ship could have been more severe had Commander Chrisman not been on the bridge that night," Loessin said.

As a strong wind drifted the Thomaston toward shallow water on Jan. 24, Chrisman attempted to "twist" the Thomaston, a maneuver in which the ship's two giant propellers are revved in opposite directions so that the vessel pivots with little forward or backward movement.

Despite Chrisman's efforts, the ship continued to drift and eventually scraped atop a reef, where it remained for about 10 minutes until it maneuvered free with help from a tugboat.

Chrisman argued Friday that as he tried to maneuver the 510-foot long Thomaston out of harm's way, an errant three-eights-inch metal nut lodged itself in one of the ship's main engines, causing one of the Thomaston's propeller shafts to stop turning.

Had mechanical failure not occurred at that crucial moment, the Thomaston might not have gone aground, Chrisman said.

Ship's engineers, however, have

testified that the propeller shaft stopped turning only after the Thomaston's hull struck the reef.

LOS ANGELES TIMES
Part II/Friday, October 5, 1984

DRAMA LOW-KEYED AT COURT-MARTIAL

Navy Skipper Being Tried Without Any Military Pomp

By DAVID FREED, Times Staff Writer

Looking out the windows of the room where his general court-martial is taking place this week, Cmdr. Willard G. (Bud) Chrisman has been afforded an ominous view: a 10-foot-high chain-link fence topped by tightly coiled barbed wire.

The fence surrounds the brig at the San Diego Naval Base, and perhaps serves as a reminder of the criminal charges Chrisman is facing.

But if Chrisman, 42, is worried about landing behind bars, he doesn't show it. Facing a possible 13 years' imprisonment on charges that he was drunk when his ship went aground in January, he appears outwardly calm, and even-humored at his trial.

He may have reason.

The defense opened its case Thursday by introducing several witnesses who testified that Chrisman didn't appear to be drunk on the dark and stormy night of Jan. 24 when his aging amphibious assault ship, the Thomaston, struck an uncharted reef in Hawaii.

Chrisman pleaded innocent to all charges against him, maintaining that while he had drunk "in moderation," he was stricken with food poisoning on the day of the grounding.

Navy prosecutors this week presented their own witnesses who contend that Chrisman, an intense, 20-year Navy veteran, displayed classic signs of intoxication before the accident and later attempted to cover up the surrounding circumstances.

The court-martial, which enters its fourth day today, has offered the public a relatively rare look at Navy justice in action.

The trial has proven to be more Perry Mason than Caine Mutiny.

Except for the white uniforms, the proceedings could easily be mistaken for a civilian hearing. The courtroom, although small, certainly is not Spartan by military standards. There is carpet on the floor; simulated leather covers the padded chairs.

Capt. Joseph M. Battaglino, a burly military judge with a linebacker's walk and a patient air, presides over the court-martial. He wears his reading glasses low on his nose and seems almost embarrassed when directing those present to sit after he has taken the bench.

He says with a smile that he does not like long lunch breaks. A 10-minute recess at noon is not uncommon in his court.

There is the Navy's young prosecutor, Lt. David L. Abney, a soft-spoken yet assertive lawyer constantly tucking in his back shirttail, which billows out each time he stands.

His youthful assistant prosecutor,

Ensign Linda E. Fitzgerald, a recent University of San Diego law school graduate, is so new to the judiciary that she has yet to receive the results of her California bar examination.

On the first day of Chrisman's trial, Fitzgerald's beaming mother was the only civilian present aside from members of the media.

"With the money my parents paid for my education, my mother just wanted to make sure they got their money's worth," Fitzgerald explained.

There is Chrisman's lanky, bespectacled defense attorney, Lt. Cmdr. Jeffrey H. Bogart, an astute questioner whose objections to Abney's tactics are more often sustained by Battaglino than they are overruled.

And then there is Chrisman.

Described by prosecution witnesses as being an often abrupt and curt commander, Chrisman displays the same bearing in court, refusing to answer or even acknow-

ledge the presence of reporters. When he was asked Tuesday if he would consent to having his photograph taken, Chrisman said nothing as he kept his back turned.

"You guys always get the wrong side anyway," said his lawyer.

LOS ANGELES TIMES
Part II/Thursday, October 4, 1984

BOSUN SAYS CHRISMAN TOLD HIM TO "SHUT UP" ABOUT SHIP GROUNDING

By DAVID FREED, Times Staff Writer

Several days after his ship went aground in Hawaii, Capt. Willard G. (Bud) Chrisman admonished a crewman to "shut up and not spread around" word of the accident, the sailor testified Wednesday as Chrisman's general court-martial entered its second day.

Chief Petty Officer Robert L. Heersema's sworn statement bolstered the Navy's assertion that Chrisman, accused of being drunk when the grounding occurred Jan. 24, attempted to hide from his superiors the true circumstances surrounding the incident.

Officers testified Wednesday that Chrisman assured them after the grounding that his friend, a fellow officer, was to investigate the incident and that no one was going to be found culpable.

The prosecution has contended that Chrisman was impaired by alcohol consumed while ashore on the day of the grounding, and that his command decisions leading to the accident were plodding, ill-thought and reckless.

Through his lawyer, Chrisman has admitted that he drank "in moderation" that day, but has maintained that he was suffering from severe food poisoning when his vessel, the dock landing ship (LSD) Thomaston, apparently struck an uncharted coral reef.

Chrisman, 42, has pleaded innocent to a total of 13 counts, including allegations of dereliction of duty and incapacitating himself for duty. He faces dismissal from the Navy and 13 years' hard labor if convicted on all charges.

Heersema, a 20-year Navy veteran who was the Thomaston's bosun, testified Wednesday that as the ship backed out of Port Allen, Kauai, he was in radio communication with the bridge and, indirectly

with Chrisman.

Heersema said he warned repeatedly that heavy winds were causing the San Diego based vessel to drift toward shoal water, but he apparently was ignored.

Chrisman, according to prosecution witnesses, apparently was bent on "twisting" the Thomaston, a maneuver in which the ship's two propellers are rotated in opposite directions so that the vessel pivots with little forward or backward movement. Despite the maneuver, the 510-foot ship continued toward shallow water.

"During that time period we were drifting to port, I noticed a scraping and bouncing," Heersema told Capt. Joseph M. Battaglino, the Navy Judge presiding over Chrisman's court-martial. "I reported it two or three times until I was told to belay my reports . . . Then the bridge told me to stand by to drop anchor. I told them we didn't need to, we were already aground."

While the ship was aground, Heersema

measured the depth of the water and found it to be 15 feet, he said. (The Thomaston's hull draws approximately 17 to 19 feet.) By reversing power and with help from a tugboat, the ship eventually was able to free itself and steam to Pearl Harbor.

Those on the bridge at the time said the usually authoritative Chrisman seemed strangely quiet during the incident at Port Allen. Petty Officer Eugene J. Crawford said he smelled alcohol on Chrisman's breath, but didn't notice any behavior associated with intoxication.

"It smelled, but it didn't reek," Crawford testified.

After the Thomaston limped to Pearl Harbor with an inoperable port propeller, word spread through the ship that the Navy was going to investigate the damage. Capt. Nigel E. Parkhurst, chief staff officer of the Thomaston's squadron and an acquaintance of Chrisman's, was assigned to head the probe.

Parkhurst eventually came aboard the

Thomaston, but Heersema said Wednesday that he never spoke to Parkhurst. Lt. David L. Abney, a Navy attorney who is prosecuting Chrisman's case, asked why.

"Didn't (Chrisman) tell you to 'shut up and not spread around what had happened?'" Abney demanded of Heersema.

"Yes, sir," Heersema responded.

Parkhurst's final report on the grounding, issued Feb. 22, made no mention of alcohol and recommended no punitive action against Chrisman.

"The commanding officer both erred in judgment in regard to his ability to twist the ship into the wind, and displayed outstanding judgment in the midst of crisis by backing the port engine . . ." Parkhurst wrote. "Placing the ship hard aground was thus avoided."

Officers aboard the Thomaston later contacted The Times expressing outrage that the navy's investigation had not been more thorough. After their allegations were reported in May, the navy renewed

its probe of the grounding and announced plans in August to court-martial Chrisman.

During testimony Wednesday, one of the Navy's foremost authorities on amphibious assault ships, Cmdr. Anthony Coulapides, questioned Chrisman's tactics on the night of the grounding. Coulapides, who has spent 39 years in the Navy, said that, in many ways, Chrisman's actions on the night of the grounding weren't those of a "reasonable and prudent" skipper.

Coulapides said: "Something else should have been done, and it wasn't."

LOS ANGELES TIMES
Wednesday, October 3, 1984

DRUNKENNESS DENIED BY NAVY SKIPPER

Chrisman Says He Had Food Poisoning When Ship Ran Aground

By DAVID FREED, Times Staff Writer

A U.S. Navy ship's captain accused of being intoxicated when his San Diego-based vessel ran aground on a Hawaiian reef in January was not drunk, but was instead suffering from "violent food poisoning", his attorney contended Tuesday during opening statements at the officer's general court-martial.

Cmdr. Willard G. (Bud) Chrisman, skipper of the amphibious assault ship Thomaston, pleaded innocent to all of the Navy's charges against him. Chrisman was depicted by his attorney as a man of great personal control who has been maligned by vindictive subordinates perhaps resentful of his intense discipline.

Food Poisoning Disputed

Prosecutors Lt. David L. Abney and Ensign Linda E. Fitzgerald began their

case Tuesday morning by presenting seven officers and crew members who testified that Chrisman exhibited various signs of intoxication before and after the Jan. 24 grounding in Port Allen, Kauai.

Among the most damaging testimony Tuesday was that of Dr. Richard C. Straube, a UC San Diego assistant professor of pediatrics and an expert on food poisoning. Straube said that from his research of the case, Chrisman displayed none of the classic signs of food poisoning.

"From the information I've seen, the most consistent diagnosis would be acute alcoholic intoxication," Straube said.

Chrisman went ashore with a group of civilian guests on the day of the grounding. He visited at least three restaurants and resorts on the island before returning later to his ship, according to testimony.

One of those guests, La Jolla attorney and former Navy officer Wendell Moats, said he saw Chrisman consume only one beer at lunch but admitted that he did

not observe Chrisman throughout the day.

Lt. Andrew L. Kilgore, the Thomaston's officer of the deck that night, testified that he watched as Chrisman came aboard about 7:50 p.m. Chrisman, he said, walked up the prow slowly. Chrisman's steps were heavy and he often leaned on the railing for support, Kilgore said.

Slept Through Briefing

Later, as the Thomaston prepared to steam toward Pearl Harbor, officers went to his cabin to summon him to a routine navigational briefing on the bridge. Despite their efforts to wake him, Chrisman, usually a light sleeper, failed to stir, officers testified.

It was the first time Chrisman had missed such a briefing since assuming command of the Thomaston in 1982, officers said.

An enlisted man, Seaman Harold Meeuwes, said he went into Chrisman's cabin to deliver a glass of tomato juice and found Chrisman huddled in his bunk. His clothes

were thrown on the deck, his trash can was filled with vomit and the cabin reeked of alcohol, Meeuwes said.

Soon after the ship got under way, a strong wind threatened to push the Thomaston toward shoal water. Chrismar, who by then had walked to the bridge and assumed direct command of the vessel's movements, attempted to "twist" the Thomaston - a maneuver in which the ship's two propellers are rotated in opposite directions so that the vessel pivots with little forward or backward movement.

The maneuver, however, did little apparent good, and the Thomaston apparently drifted aground on an uncharted reef. The coral ripped open the ship's 510-foot hull in several places and badly damaged one of its 12-foot propellers.

At least $280,000 damage was done.

Defense attorney Bogart is expected to argue that the grounding may have been unavoidable because of a mechanical failure that night that caused one of the ship's

two massive propeller shafts to lock in place.

'Not Exactly . . . Mr. Chips'

"He is not exactly a Mr. Chips figure," said Chrisman's lawyer, Lt. Cmdr. Jeffrey H. Bogart. "He is a demanding person: demanding of himself and those who work for him. This was an old ship with problems. (Chrisman) was sent to that ship to correct those problems, and he proceeded to do so."

Bogart conceded that Chrisman, 42, had been drinking alcohol on the day of the grounding. However, Chrisman was incapacitated by tainted fish that he had eaten while ashore a few hours before, Bogart said.

"He is accused of being falling down drunk," said Bogart. "That just wasn't so. Commander Chrisman, if nothing else, is a person of moderation . . . a superbly conditioned athlete who long ago made a commitment not to abuse himself."

Chrisman on Tuesday waived his right

to have his case heard by a board of senior officers. Instead, a Navy Judge, Capt. Joseph M. Battaglino, alone will determine Chrisman's fate.

Testimony is expected to continue throughout the week at the San Diego Naval Base. As many as 40 witnesses may be summoned.

Bogart's portrayal of the intense, rail-thin Chrisman was in stark contract to that offered Tuesday by naval prosecution attorneys, who hope to send Chrisman to prison on charges that he recklessly endangered his aging warship.

Chrisman's court-martial began less than a week after the 30-year-old Thomaston, the oldest of the Navy's amphibious ships, was mothballed.

A 20-year Navy veteran with an unblemished record, Chrisman has been accused in 13 specifications of violating six articles of the Uniform Code of Military Justice. The allegations include being drunk while on duty, incapacitating himself

while on duty, negligently damaging government property, and negligently hazarding a vessel by knowingly operating his ship in an unsafe condition.

Other charges include dereliction of duty by failing to accurately report damage sustained during the grounding and knowingly releasing an official Navy radio message containing false information regarding one of the Thomaston's landing craft, which also was damaged as a result of the grounding.

Chrisman was relieved of his command in June, after the Navy renewed its investigation of the grounding following allegations of intoxication raised by The Times in May.

He faces dismissal from the Navy and 13 years' confinement at hard labor if convicted on all counts.

"The offenses charged in this case are particularly serious, and the evidence of wrongdoing seems clear and abundant . . .," Navy prosecutors wrote in their

pre-trial motions. "No reasonable person could doubt that trial by general court-martial was not only warranted but impelled."

LOS ANGELES TIMES
August 29, 1984

OFFICER TO BE TRIED IN IN WARSHIP GROUNDING

By DAVID FREED, Times Staff Writer

SAN DIEGO - The commander of a U.S. Navy warship based here will be court-martialed on charges that he was drunk when his aging, 13,000-ton vessel ran aground in January, a Navy spokesman said Tuesday.

Cmdr. Willard G. (Bud) Chrisman, skipper of the amphibious assault ship Thomaston, faces dismissal from the Navy and 13 years confinement at hard labor if convicted on all counts.

Chrisman, 42, was relieved of his command in June and assigned to shore duty in Japan after the Navy initiated a formal investigation into the grounding, which occurred in Hawaii. He has since been transferred to a desk job in San Diego, according to Cmdr. Ron Morse, a Navy Spokesman in San Diego.

Morse said the decision to court-martial Chrisman was made Friday by Vice Adm. Harry C. Schrader, Jr., commander of the Navy's surface forces in the Pacific, after he examined the findings of a full-scale investigation of the grounding. Schrader ordered the investigation after The Times in May, reported allegations that Chrisman was drunk when the grounding occurred.

Chrisman was not punished after the Navy's initial review of the incident, which made no mention of alcohol.

Morse said Tuesday that grounding-related repairs to the Navy cost about $280,000. However, copies of work orders obtained by The Times indicate that at least $465,000 in repairs was authorized. They were completed in May at Subic Bay, the Philippines.

A native of Port Arthur, Tex., and a University if Missouri graduate, Chrisman has spent more than 20 years in the Navy. He served aboard a destroyer as a weapons

officer, attended the Armed Forces Staff College and spent two years in a foreign liaison position with the Defense Intelligence Agency before assuming command of the Thomaston in 1982.

Soon after the ship got under way, a strong wind threatened to push the Thomaston toward shallow water. Chrisman, who by then had assumed direct command of the vessel's movements, attempted to "twist" the Thomaston - a maneuver in which the ship's two propellers are rotated in opposite directions so that the vessel pivots with little forward or backward movement.

The maneuver, however, did little apparent good and Chrisman seemed unwilling to attempt any other evasive action. The Thomaston, with more than 300 crewmen aboard, drifted aground on an unchartered reef. The coral ripped open the 510-foot vessel's flat hull in several places and badly damaged on of its 12-foot propellers.

Tentative repairs were made at Pearl

Harbor and the Thomaston soon afterward set course for Okinawa. At sea, however, grounding-related damage that went undetected at Pearl Harbor caused the Thomaston to take on water. The flooding, in turn, caused a 110-foot landing craft to break free from its lashings and careen about.

Officers have accused Chrisman of attempting to cover up the flooding by telling superiors that the Thomaston's ballast valves needed replacing.

Morse said Tuesday that grounding-related repairs cost the Navy about $280,000. However, copies of the work orders obtained by The Times indicate that at least $465,000 in repairs were authorized. Those repairs were completed in May at Subic Bay in the Philippines.

The last court-martial of a Navy ship's captain is believed to have occurred in 1983, when Cmdr. Gerald M. Vanderwier, 42, skipper of the Florida-based frigate Edward McDonnell, was accused of engaging in homosexual relations with an enlisted man.

Vanderwier was found guilty in December on three counts of sodomy. He was dismissed from the Navy and ordered to forfeit $1,200.

Vanderwier has appealed his conviction.

Like Vanderwier, Chrisman enjoyed a distinguished service career until allegations against him surfaced.

A Native of Port Arthur, Tex., and a University of Missouri graduate, Chrisman has spent more than 20 years in the Navy. He served aboard a destroyer as a weapons officer, attended the Armed Forces Staff College and spent two years in a foreign liaison position with the Defense Intelligence Agency before assuming command of the Thomaston in 1982.

LOS ANGELES TIMES
June 22, 1984

NAVY BEACHES SKIPPER WHO RAN SHIP ON REEF IN HAWAII

By DAVID FREED, Times Staff Writer

The captain of a U.S. Navy warship that has its home port in San Diego was relieved of his command Thursday and faces 10 counts of violating military regulations amid allegations that he was intoxicated when his vessel ran aground in Hawaii.

Cmdr. Willard G. (Bud) Chrisman, 42, captain of the amphibious assault ship Thomaston, has been reassigned to shore duty in Japan pending outcome of a formal investigation of the grounding according to Cmdr. Ron Morse, a Navy spokesman in San Diego.

A 20-year Navy veteran with a distinguished career, Chrisman faces possible court-martial or dismissal from the service if the allegations against him are proven. The decision to relieve Chrisman and prefer

charges was made by Vice Adm. Harry C. Schrader, Jr. commander of the Navy's surface forces in the Pacific.

"Because of pending charges and the possibility of future disciplinary action, Schrader determined that Chrisman could no longer act effectively as commanding officer of a combatant ship." Morse said.

The decision to relieve Chrisman was regarded as rare.

In the past two years only one other captain in the Navy's 167-ship Pacific surface fleet has been relieved of his command, Morse said. That captain, the skipper of a mind sweeper, was never charged with misconduct, but was sent to a rehabilitation center for treatment of alcoholism because of "behavioral problems he was having at the time."

Costly Damages

The Navy has so far been billed $46,046 in repair costs because of the Thomaston accident, Morse said. However, a partial

set of work orders obtained by The Times shows that at least $465,000 in repairs were ordered after the grounding. Experienced officers with knowledge of the Thomaston's hull damage estimated repair costs would exceed $1 million.

Repairs were completed on May 8 in the Philippines even though the Thomaston, the oldest of 65 amphibious warships now in active U.S. service, is due to be mothballed in September. The ship is now in Yokosuka, Japan.

Several Thomaston officers contacted The Times in May, expressing outrage that the Navy had not conducted a more thorough investigation of the grounding. They also were critical that Chrisman had not been disciplined.

The Navy reopened its investigation after The Times published the officers' allegations to in a story on May 20. At about the same time, Navy officials received an anonymous telephone call that also

detailed problems aboard the ship, Morse said.

The Chrisman's commanders are formally investigating possible violations of four sections of the Uniform Code of Military Justice, Morse said. Ten counts are involved, but Morse said he was unsure of which justice code section applied to each count.

The four violations of which Chrisman is accused are failure to obey a lawful general order and dereliction of duty; damaging government property; hazarding a vessel; and incapacitating himself for duty.

"The last charge relates to excessive consumption of alcoholic beverages, but it should be noted that Chrisman has not been accused of drinking aboard ship." Morse said.

The present investigation is similar to a civilian grand jury. If there can be found sufficient evidence for prosecution, Chrisman will either be court-martialed,

dismissed or simply reprimanded, Morse said. If he is exonerated, Chrisman's next assignment would be decided by a naval screening board. It is unlikely he would return to the Thomaston, which he has commanded since 1982.

Officers staioned on the 510-foot Thomaston said Chrisman went ashore Jan. 24 at Port Allen, Kauai, with a group of civilians. That evening, as the ship and its 310-man crew prepared to leave for Pearl Harbor, sailors went below deck to summon Chrisman to the bridge so that he could direct the departure from Port Allen's narrow harbor.

The officers alleged that Chrisman was found sprawled on his cabin bunk. They said he had been vomiting and appeared drunk. As he walked to the bridge, Chrisman seemed to stagger and his voice was hoarse, they said.

Soon after the ship got under way, a strong, steady wind threatened to push

the Thomaston toward shallow water, the officers claim, and Chrisman, who by then had assumed direct command of the vessel's movements, attempted to "twist" the Thomaston - a maneuver in which the ship's two propellers are rotated in opposite directions so that the vessel pivots with little forward or backward movement.

The maneuver, however, did little apparent good, and the Thomaston drifted aground on an uncharted reef. The vessel's flat hull was ripped open in several places and one of its 12-foot propellers was badly damaged.

The Navy's preliminary investigation of the incident, conducted by the chief staff officer of Chrisman's squadron, made no mention of alcohol. Chrisman, according to officers, was issued a letter by superiors that merely admonished him for being "inflexible" in his efforts to prevent the Thomaston from going aground. The letter was not placed in Chrisman's career file.

Morse said he did not know how long the present investigation involving Chrisman would take, but vowed that "it will be comprehensive."

Capt. J. P. Kelly, who had been assigned to another naval vessel, was named new skipper of the Thomaston, Morse said.

May 20, 1984
LOS ANGELES TIMES

NAVY OFFICERS SAY DRUNK CAPTAIN CAUSED GROUNDING

By DAVID FREED, Times Staff Writer

A U.S.Navy warship based in San Diego recently spent two weeks in dry dock undergoing repair after its captian became intoxicated and failed to prevent the vessel from running aground, ship's officers have alleged.

Naval authorities said they have launched a formal investigation into allegations involving the docklanding ship Thomaston, which ran aground Jan. 24 in Hawaii.

Cmdr. Ron Morse, a Navy spokesman in San Diego, said claims that the Thomaston's, captain had been drinking are "being taken seriously but we have no information

at this point that the charge is true. Needless to say, it would be extremely uncharacteristic for a commanding officer to do this."

Morse declined to discuss specific aspects of the Navy's investigation, which he said could take six months or longer.

The Navy has so far been billed $46,036 for repairs as a result of the Thomaston's accident. Morse said. However, a partial set of work orders obtained by The Times shows that at least $465,000 in repairs were recommended after the grounding. Experienced officers with knowledge of the Thomaston's hull damage estimated the final cost of the repairs could exceed $1 million.

Repairs were completed on May 8 in the Philippines even though the Thomaston, the oldest of 65 amphibious warships currently in active U.S. service, is due to be mothballed in September.

Several Thomaston officers contacted The Times by telephone last week, expressing outrage that the Navy's preliminary inbestigation of the grounding had not been conducted more intently. They also were critical that the ship's captain, Cmdr. Willard G. (Bud) Chrisman, had not been disciplined.

"He endangered 310 lives by his actions, and you just can't let something like that slide," said one officer. "Thirty or 40 people on this ship saw him that night. It was a disgrace."

Chrisman reportedly was issued a non--punitive "letter of caution" shortly after the grounding. However, a Navy official who conducted a preliminary inquiry was not told during his investigation about the contention that Chrisman had been drinking before the incident. Ship's personnel said they didn't come forward at the time because they feared retaliation.

The Times brought the officers' alle-

gation to the Navy, which then re-opened its investigation. Chrisman could lose his command and face disciplinary action if the allegation of drinking while on duty prove true.

Extensive Sea Duty

A 20-year Navy veteran, Chrisman, 42, has a distinguished service record that includes txtensive sea duty aboard other warships. He served two years in a foreign liaison position with the Defense Intelligence Agency before assuning command of the Thomaston in 1982.

He declined to speak with a Times reporter, on advice from the Navy.

Ship's personnel agreed to discuss the Jan. 24 incident on condition they not be identified. This is what they contend:

The Thomaston left San Diego on Jan. 17 bound for the Hawaiian Islands with 310 crew members and approximately 250 Marines aboard. The ship arrived a week later at

Port Allen on Kauai, where the Marines debarked.

On the morning that the 510-foot Thomaston docked in tiny Port Allen, Chrisman assembled the entire crew except for those on watch. He informed them that they were free to leave the ship, but were to return that afternoon, when the Thomaston was to head for Pearl Harbor.

Chrisman left the ship about 11 a.m. accompanied by three of nine civilian Navy guests who had sailed from California to Hawaii avoard the Thomaston. The guests accompanying Chrisman wher Claude Schonert of Cathedral City, a contractor whose wife attended high school in Costa Mesa with Chrisman's wife; Schonert's father-in-law, Charles Pike of Anaheim, and John Ryan, a Catholic priest from the British Royal Navy.

Schonert told The Times that he, Chrisman, Pike and Ryan rented a car for the afternoon on Kauai. Schonert said they

went sightseeing and had dinner before returning to the ship.

"We had a few beers but it was nothing major," Schonert said. "I was driving and I can assure you I don't drink when I drive." Schonert said Chrisman was not intoxicated.

The Thomaston's officers had scheduled a navational briefing for about 5 pm. that day to discuss woth the captain the procedures that would be used to maneuver the vessel out of Port Allen. That task, all had agreed earlier, might be tricky because of the port's narrow dimensions and prominent shoals.

Found on Bunk

Chrisman, however, did not attend the 5 p.m. briefing. He had come aboard earlier and was reported to be asleep. As the ship prepared to depart later, two officers were dispatched to summon Chrisman to the bridge so that he might direct the departure.

Sources said Chrisman was found sprawled on his cabin bunk. He had been vomiting and appeared drunk.

As he walked to the bridge, Chrisman seemed to stagger and his voice was hoarse. After he arrived, the ship began backing away from the 600-foot pier to which it had been moored and made its way into the habor.

Just outside the harbor entrance a steady wind gusting 33 knots began to blow.

Chrisman decided to "lay to," or halt the ship's progerss until a harbor pilot--who had been placed aboard to help guide the Thomaston into open water-could debark. At the same time, Chrisman announced he was "taking the con," a Navy expression indicating he would assume direct control of the ship's movements.

In the strong wind, the Thomaston began to float toward shallow water. Chrisman ordered minor navigational changes as the ship continued to drift.

Chrisman attempted to "twist" the Thomaston, a maneuver in which the ship's two propellers are rotated in opposite directions so that the vessel pivots with little forward or backward movements.

A lookout stationed in the ship's forecastle began shouting out the shrinking number of yards between the Thomaston and the shore. Yet personnel who were on the bridge said Chrisman seemed only intent on trying to "twist" the ship as it moved ever closer to the beach.

Suddenly, at 10:28 p.m., the Thomaston shuddered and a loud metallic noise could be heard. The vessel had run aground on an uncharted reef, where it remained for an estimated 18 to 20 minutes.

Chrisman "was very, very calm; he was acting real slow," said one man who was on the bridge at the time.

"The captain was in a stupor," said another. "He obviously knew he was in trouble."

It took all of the ship's power-and a push from a civilian tugboat-to free the Thomaston.

"(Chrisman) wouldn't let his ship run agound," said Schonert, who admitted he was asleep when the incident occurred. "Let me tell you, that harbor was too small for that ship to begin with. He put a few nicks in the prop, that was all

The Thamaston limped at about half speed to Pearl Harbor, where divers reported finding a few scrapes on the hull and a badly damaged 12-foot propeller, one of two attached to the twin steam turbines that power the ship. A replacement propeller was ordered from the East Coast at an approximate cost of $46,000 and transported to Hawaii aboard a specially chartered U.S. Air Force jet.

While the propeller damage was plainly visible, Pearl Harbor divers apparently failed to discover what later inspections in Okinawa, Japan, and the Philippines

would reveal: a 10-foot-long, 4-inch-wide gash running down the center of the hull; a foot-square rip in another area; a smaller hole with chunks of coral protruding from it; torn structural beams, and indentations in at least eight hull sections.

Before the Thomaston left Pearl Harbor, naval officials prepared a routine report on the grounding, as they do on all such accidents. Capt. Nigel Parkhurst, chief staff officer of the Thomaston's squadron and himself a former dock landing ship commander, was assigned to conduct the inquiry.

As Parkhurst prepared to come aboard the Thomaston, Chrisman assembled his officers and chief petty officers.

"He told us that his friend, Captain Parkhurst, would be handling the investigation," said one officer who attended the meeting. "He said everything was going to be OK. After (Chrisman) told us that (Parkhurst) was his buddy, nobody in their

right mind would say the captain was drunk when we went aground. We thought the captain would admit it. But he didn't."

Based on Parkhurst's findings, which made no mention of alcohol, Chrisman's squadron commander issued a letter that gently admonished Chrisman for being "inflexible" in his efforts to stop the Thomaston from going agound. The letter was not placed in Chrisman's career records file.

As soon as its damaged propeller could be replaced, the Thomaston steamed into open water. But in relatively calm seas, the Thomaston began taking on water.

Aboard other warships, such an event would be of immediate concern. However, the Thomaston and other dock landing ships are designed to partially fill with water. During amphibious warfare operations, part of the ship called the 'well deck' is intentionally flooded. The process allows landing craft and other amphibious assault

vehicles carried aboard the Thomaston to be launched from her stern.

Flooding, Chaos

On this night, however, as more than four feet of seawater inadvertently filled the Thomaston, the flooding caused chaos, A 110-foot, 180-ton utility landing craft (LCU) broke free from its one-inch-thick wire lashings and began careening about the well deck.

The damaged LCU eventually was strapped down, but not before one crewman was nearly knocked overboard.

Word of the LCU incident soon made its way to the Thomaston's unit, Amphibious Squadron 5. Commanders requested an explanation. Chrisman's response suggested the Thomaston had been having problems with its ballast valves, and made no mention of the Port Allen grounding. Chrisman had earlier requested that five replacement valves be ordered at an estimated cost of $30,000.

"We didn't need (new ballast valves)

at all; everyone knew that at the time," said one officer. "The new valves were waiting for us at the dock when we got to Sasebo, Japan, but they were never even installed. It was just a cover-up so that we wouldn't have to talk about what happened in Hawaii."

It would be more that three weeks before the ship reached Okinawa. For the duration of the journey, at three-hour intervals, the crew had to operate ballast pumps to remove water from the well deck.

Holes Detected

After a brief stop at Okinawa, the Thomaston headed toward Korea and then Sasebo, Japan, the nearest available repair facility, where divers reported finding holes in the hull. Emergency repairs were made and the ship proceeded to the Navy's base in the Philippines.

The Thomaston went into dry dock at Subic Bay, the Philippines, on April 24, where it remained for two weeks. It later

steamed to Hong Kong, where it has been for the last week.

The ship is to remain in service until September, when it is scheduled to be retired in ceremonies in San Diego and then mothballed in San Francisco Bay.

Navy spokesman Morse defended the repairs as necessary even though the Thomaston is to be decommissioned.

"Were more concerned about what happens tomorrow than what happens four months from now," Morse said. "We may need that ship tomorrow."